

HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

Writ Appeal 119 of 2006

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Between:

The Collector and District Magistrate,
Anantapur, Anantapur District ... Appellant

And

N. Venkata Narayana and another ... Respondents

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::JUDGMENT::

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Counsel for the appellants: Government Pleader for Social Welfare

Counsel for respondent No.1: Mr.K. Srinivasa Murthy

Counsel for respondent No.2: Mr.C.V. Mohan Reddy

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January 27, 2006

Per G.S. Singhvi, CJ

This appeal is directed against order dated 23-7-2004 whereby the learned Single Judge allowed Writ Petition No.5866 of 1994 and quashed order passed by District

Collector, Anantapur cancelling the caste certificate issued in favour of respondent No.1.

Respondent No.1 was appointed as Clerk in the services of Syndicate Bank on 16-5-1978 by being treated as a member of Scheduled Tribe. After more than 14 years, District Collector, Anantapur after getting a fact finding enquiry conducted through the Revenue Divisional Officer issued notice dated 16-11-1992 to respondent No.1 proposing to cancel the caste certificate dated 1-1-1978 issued by Tahsildar, Anantapur. Respondent No.1 filed reply and complained that copy of the report of the Revenue Divisional Officer has not been made available to him and he had not been associated with the enquiry conducted by that officer. However, without supplying copy of the report and without considering the grievance made by him in that regard, the District Collector vide his order dated 29-6-1993 cancelled the caste certificate issued in favour of respondent No.1. Thereafter, management of the Syndicate Bank initiated departmental enquiry against respondent No.1. This prompted the latter to file writ petition under Article 226 of the Constitution of India for quashing order dated 29-6-1993 passed by the District Collector.

One of the grounds urged before the learned Single Judge was that the order of District Collector is vitiated due to violation of the rules of natural justice. It was contended that the Revenue Divisional Officer had conducted enquiry without associating respondent No.1 and copy of the enquiry report had not been supplied to him and, on that account, he could not file effective reply to the show cause notice.

The learned Single Judge accepted the plea of respondent No.1 and quashed the order of the Collector by recording the following observations:

“7. There is no dispute that the Tahsildar, Anantapur, issued caste certificate to the effect that the petitioner belongs to Boya (Scheduled Tribe) community, but the question that calls for consideration is as to whether before cancelling the certificate, proper opportunity was given to the petitioner by the inquiring authority? Admittedly, in this case, the Revenue Divisional Officer was directed to conduct an enquiry and submit a report, but that does not mean that the enquiry should take without opportunity to the petitioner. It is necessary that the petitioner ought to have been called for enquiry and necessary opportunity should be given. Further, the report of the Revenue Divisional Officer was not furnished, which completely disabled the petitioner to give effective representation. Thus, I find that the order of the District Collector, Anantapur is in gross violation of the principles of natural justice and on this ground alone, without going into other merits of the case, I am

inclined to allow the writ petition.”

Learned Government Pleader for Social Welfare submitted that he is not seriously challenging the substratum of the impugned order and the appellant be feel satisfied if the Court gives liberty to the competent authority to pass fresh order in the matter of cancellation of caste certificate issued in favour of respondent No.1 after giving him reasonable opportunity of hearing.

Learned counsel for respondent No.1 very fairly states that he will have no objection if liberty is given to the appellant to pass appropriate order in accordance with law after complying with the rules of natural justice.

In view of the statements made by learned counsel for the parties, the appeal is disposed of with the direction that the appellant shall be entitled to hold fresh enquiry in the matter of caste certificate issued in favour of respondent No.1 and pass appropriate order after giving him reasonable opportunity of hearing. This would necessarily mean that the District Collector shall first supply copy of the report of the Revenue Divisional Officer to respondent No.1 and give him sufficient time to controvert the findings contained therein. If respondent No.1 makes a request to that effect, the District Collector shall afford him opportunity of personal hearing.

While disposing of the appeal in the manner indicated above, we deem it proper to make it clear that even if the learned Government Pleader had pressed the appellant's challenge to the order passed by the learned Single Judge, the same would have been negatived in view of the judgment of the Constitutional Bench in **Managing Director, ECIL, Hyderabad v. B. Karunakar** which lays down that report of enquiry must be made available to the person against whom action is proposed to be taken on the basis of such report.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

January 27, 2006

MVB / svs